

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUNPOINTE TOWNHOMES ASSOCIATION, a
Washington Non-Profit Corporation,

Plaintiff,

v.

SAFECO INSURANCE COMPANY OF
AMERICA, a New Hampshire Corporation;
AMERICAN ECONOMY INSURANCE
COMPANY, an Indiana Corporation;
AMERICAN STATES INSURANCE
COMPANY, a Massachusetts Corporation;
LIBERTY MUTUAL INSURANCE COMPANY,
a Massachusetts Corporation; and DOE
INSURANCE COMPANIES 1–10,

Defendants.

NO.

COMPLAINT FOR DECLARATORY
RELIEF AND MONETARY DAMAGES

JURY DEMAND

Plaintiff Sunpointe Townhomes Association (“Association”) alleges as follows:

I. INTRODUCTION

1.1 This is an action for declaratory judgment and money damages seeking:

(A) A declaration of the rights, duties, and liabilities of the parties with respect to certain controverted issues under insurance policies issued to the Association by Safeco Insurance Company of America, American Economy Insurance Company, American States Insurance Company, and Liberty Mutual Insurance Company. The Association is seeking a ruling that the Safeco Insurance Company of America, American Economy Insurance Company, American States Insurance Company, and Liberty Mutual Insurance Company policies provide coverage for

1 damage at the Sunpointe Townhomes and that Safeco Insurance Company of America, American
 2 Economy Insurance Company, American States Insurance Company, and Liberty Mutual Insurance
 3 Company are liable for money damages for the cost of investigating and repairing the damage at
 4 the Sunpointe Townhomes.

5 (B) Attorneys' fees and costs (including expert witness fees).

6 (C) Any other relief the Court deems just and equitable.

7 **II. PARTIES AND INSURANCE CONTRACTS**

8 2.1 The Association. The Association is a nonprofit corporation organized under the laws of the
 9 state of Washington with its principal place of business located in Renton, Washington. The
 10 Association has the duty to maintain the common elements and any limited common elements of
 11 the Sunpointe Townhomes. The Sunpointe Townhomes consists of thirteen (13) buildings
 12 containing a total of sixty-six (66) residential units located in Renton, Washington.

13 2.2 Safeco Insurance Company of America. Safeco Insurance Company of America ("Safeco")
 14 is a New Hampshire domiciled insurer with its principal place of business in Boston,
 15 Massachusetts. Safeco is registered and authorized to sell insurance in Washington State. On
 16 information and belief, Safeco sold and issued property insurance policies to the Association. The
 17 Association is seeking coverage under all Safeco policies issued to the Association and/or covering
 18 the Sunpointe Townhomes.

19 2.3 American Economy Insurance Company. American Economy Insurance Company
 20 ("AEIC") is an Indiana domiciled insurer with its principal place of business in Boston,
 21 Massachusetts. AEIC is registered and authorized to sell insurance in Washington State. On
 22 information and belief, AEIC sold and issued property insurance policies to the Association. The
 23 Association is seeking coverage under all AEIC policies issued to the Association and/or covering
 24 the Sunpointe Townhomes.

25 2.4 American States Insurance Company. American States Insurance Company ("American
 26 States") is a Massachusetts domiciled insurer with its principal place of business in Boston,
 27

Massachusetts. American States is registered and authorized to sell insurance in Washington State. On information and belief, American States sold and issued property insurance policies to the Association. The Association is seeking coverage under all American States policies issued to the Association and/or covering the Sunpointe Townhomes.

2.5 Liberty Mutual Insurance Company. Liberty Mutual Insurance Company (“Liberty”) is a Massachusetts domiciled insurer with its principal place of business in Boston, Massachusetts. Liberty is registered and authorized to sell insurance in Washington State. On information and belief, Liberty sold and issued property insurance policies to the Association. The Association is seeking coverage under all Liberty policies issued to the Association and/or covering the Sunpointe Townhomes. Liberty is also believed to be the successor in interest to Safeco, AEIC, and American States.

2.6 Doe Insurance Companies 1–10. Doe Insurance Companies 1–10 are currently unidentified entities who, on information and belief, sold insurance policies to the Association that identify the Sunpointe Townhomes as covered property.

2.7 Sunpointe Insurers. Safeco, AEIC, American States, Liberty, and Doe Insurance Companies 1–10 shall collectively be referred to as the “Sunpointe Insurers.”

2.8 Sunpointe Policies. The policies issued to the Association by the Sunpointe Insurers shall collectively be referred to as the “Sunpointe Policies.”

III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) as the parties are completely diverse in citizenship and the amount in controversy exceeds \$75,000.

3.2 Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) as the Sunpointe Insurers marketed and sold insurance to the Association in King County; a substantial part of the events giving rise to the claim occurred in King County; and the insured condominium buildings are located in King County.

IV. FACTS

4.1 Incorporation by Reference. The Association re-alleges the allegations of Paragraphs 1.1 through 3.2, above, as if fully set forth herein.

4.2 Tender to Sunpointe Insurers. On November 7, 2022, the Association tendered claims for insurance coverage to the Sunpointe Insurers for hidden damage at the Sunpointe Townhomes discovered by J2 Building Consultants ("J2"). The Association understands from J2 that the cost to repair the covered hidden damage at the Sunpointe Townhomes is substantially over the jurisdictional limit of \$75,000.

V. FIRST CLAIM AGAINST THE SUNPOINTE INSURERS: DECLARATORY RELIEF THAT THE SUNPOINTE POLICIES PROVIDE COVERAGE

5.1 The Association re-alleges and incorporates by reference the allegations of Paragraphs 1.1 through 4.2, above, as if fully set forth herein.

5.2 The Association seeks declaratory relief from the Court in the form of determinations regarding the following disputed issues:

(A) The Sunpointe Policies cover the hidden damage to exterior building components including, but not limited to, weather-resistive barrier, sheathing, and framing at the Sunpointe Townhomes.

(B) No exclusions, conditions, or limitations bar coverage under the Sunpointe Policies.

(C) The loss or damage to the Sunpointe Townhomes was incremental and progressive. New damage commenced during each year of the Sunpointe Policies.

(D) As a result, the Sunpointe Policies cover the cost of investigating and repairing hidden damage to exterior building components including, but not limited to, weather-resistive barrier, sheathing, and framing at the Sunpointe Townhomes.

VI. PRAYER FOR RELIEF

WHEREFORE, the Association prays for judgment as follows:

6.1 Declaratory Judgment Regarding Coverage. A declaratory judgment that the Sunpointe Policies provide coverage as described herein.

6.2 Money Damages. For money damages in an amount to be proven at trial.

6.3 Attorneys' Fees and Costs of Suit. For reasonable attorneys' fees and costs (including expert fees). *See Olympic Steamship Co. v. Centennial Ins. Co.*, 117 Wn.2d 37, 811 P.2d 673 (1991), and RCW 48.30.015.

6.4 Other Relief. For such other and further relief as the Court deems just and equitable.

VII. DEMAND FOR JURY TRIAL

7.1 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Association demands trial by jury in this action of all issues so triable.

Dated the 7th day of November, 2022.

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